

REMARKS

Claims 1, 9-19, and 26 were pending in the application. Claims 10-15 and 26 were withdrawn from consideration. Claim 17 was objected to, and claims 1, 9, 16, 18, and 19 were rejected. Claims 1, 18 and 19 are amended herein without prejudice and without acquiescence. Claim 17 is canceled herein without prejudice and without acquiescence. Applicant reserves the right to pursue amended and canceled material in subsequent prosecution. No new matter is entered herein.

I. 35 USC § 112 First Paragraph (Enablement)

Claims 1, 9, 16, 18, and 19 were rejected under 35 USC § 112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to have enabled the skilled artisan how to make and use the invention.

The Examiner suggested that the reference in claim 1 to “a disorder in which increased cell division occurs” is broader than is enabled by the specification as filed. Although Applicants do not necessarily agree, in order to further the prosecution of the application claim 1 now incorporates the subject matter of previous claim 17, and now recites methods for the treatment of cancer.

It is submitted that this subject matter is fully enabled in this case. In particular, as already acknowledged by the Examiner, the present application demonstrates that a peptide of the invention can inhibit the proliferation of leukemia cells (page 3 of the Action). A peptide of the invention is also shown to have the ability to inhibit growth of cancerous cells present in the skin: pancreas, kidney, breast, lung, bladder, prostate, cervix, ovary and stomach, as recognized by the Examiner on page 3 of the Action and as demonstrated in the specification at least at paragraphs [0042], [0043], and [0282] of the originally filed application. The application therefore demonstrates the effectiveness of peptides of the invention in treating a wide variety of cancers. The scope of the claims as now amended is believed to be reasonable in view of the data presented to the Examiner.

In particular, in view of the data presented in the application, it is not believed that any undue experimentation would be needed in order to perform the method as claimed across its full scope. Claim 1 as now amended is therefore believed to be fully enabled.

Applicants respectfully request withdrawal of the rejection.

II. 35 USC § 112 Second Paragraph

Claims 18 and 19 were rejected under 35 USC § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter of the invention.

Solely to further the prosecution of this case, clarifying amendments have been made in claims 18 and 19 based on the Examiner's suggestions. In particular, the reference to PBX in claim 19 has been expanded to include a more specific meaning of this term based on page 1 line 28 of the application as filed. Both claims 18 and 19 have been amended to specify the type of cells in which the increased cell division mentioned in claim 1 occurs.

Applicants respectfully request withdrawal of the rejection.

III. Conclusion

In view of the amendments now made and the arguments presented herein, favorable reconsideration of the application is respectfully requested.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 06-2375, under Order No. HO-P03185US0.

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Respectfully submitted,

By /Melissa L. Sistrunk/

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